HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:15818 OF 2006

Dated: 29.10.2007

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Between:

P. Subba Reddy.

..**Petitioner**

And

1. The Government of A.P.,
   rep., by its Principal Secretary,
   Health, Medical and Family
   Welfare Department, Secretariat,
   Hyderabad and others.

..Respondents

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HONOURABLE SMT. JUSTICE T.MEENA KUMARI
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HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:15818 OF 2006

ORDER: (per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioner aggrieved by an order, dated 5.5.2006 passed by the A.P. Administrative Tribunal in O.A.No.5953 of 2004.

The petitioner herein is the applicant before the tribunal.

He filed the above O.A., seeking to declare the action of the respondents in not considering his representations for notionally extending the benefit of promotion for the post of Special Grade Professor and not promoting as Additional Director of Medical Education in the available vacant posts and further posting the 3rd respondent as Full Additional Charge of the post of Principal in S.V. Medical College, Tirupathi, as illegal and arbitrary and to direct the respondents 1 and 2 to promote him.

The tribunal having observed that the respondents passed the orders impugned placing the third respondent on full additional charge of the post of Principal, S.V. Medical College in pursuance of the interim directions of the tribunal, dated 17.6.2004 and the order is purely an incharge arrangement and such an order necessitated in view of the pendency of litigations before the Tribunal, High Court as well as the Apex Court involving the seniority of various categories of persons right from the feeder category of Assistant Professor/Civil Assistant Surgeon to the Post of Professor and that the applicant has secured less number of marks than the 3rd respondent during the

course of selection in the year 1977 and therefore, it cannot be said that the 3rd respondent is junior to the applicant and that the respondents have ordered FAC arrangement on the basis of ranking given by APPSC and that according to the respondents, a seniority list in the cadre of Assistant Professor has been prepared and the respondents are taking steps to effect promotions, disposed of the O.A., directing the respondents to consider the case of the applicant for promotion to the post of Special Grade Professor, as and when regular promotions are ordered, as per his seniority and eligibility. Having dissatisfied by the order of the tribunal, the applicant preferred the present writ petition.

It is the case of the applicant that though he is senior to the 3rd respondent, the respondents without giving promotion to him, appointed the 3rd respondent as the FAC of Principal and that the applicant was placed at Sl.No.6 whereas the 3rd respondent was placed at Sl.No.102 in the Seniority list to the post of Special Grade Professor as on 31.8.2001 and the respondents have failed to fill up Special Grade Professor posts for the past 15 years for the reasons best known to them and all Special Grade professor posts are now vacant and furthermore, the official respondents violated the statutory rules under G.O.Ms.No.154 HM & FW (A2) dated 4.5.2002 without giving promotion and therefore, the tribunal is not justified in passing the order impugned and the same is liable to be set aside.

On the other hand, the learned Government Pleader contended that a seniority list of the Professors has been prepared and proposals

for promotion to the posts of Special Grade Civil Surgeons have already been submitted to the Government and the orders are awaited in this regard. A combined seniority list of Special Grade Professor (Clinical)/Professor (non-Clinical) has to be prepared with reference to the date of appointment to the cadre of Assistant Professor and the Seniors among all the categories will be considered for promotion as per the vacancy position. In view of the chequered litigation involved in the department, the posts on teaching side as well as administrative side are not filled up on regular basis. Apart from that, the incharge arrangement has been made only in pursuance of the interim directions issued by the Tribunal. In the circumstances, the order of the tribunal needs no interference.

As can be seen from the order impugned, it is clear that the respondents have passed the orders placing the 3rd respondent on full additional charge of the post of Principal, basing on the interim directions of the tribunal dated 17.6.2004 and the order is purely an incharge arrangement order wherein the 3rd respondent who is holding a lower post has been asked to discharge the duties of higher post of Principal of S.V. Medical College and such an order necessitated in view of the pendency of the litigations before the tribunal, this Court as well as the Apex Court involving the Seniority of various categories of persons right from the feeder category of Assistant Professor/Civil Asst. Surgeon to the post of Professor.

As already stated, the incharge arrangement of the 3rd respondent, is nothing but an outcome of the interim direction issued

by the tribunal. Apart from that, while disposing of the O.A., the tribunal has simply arrived at the conclusion as to the seniority between the applicant and the 3rd respondent solely basing on the statistical data. When it is clearly mentioned in the order by the tribunal that the respondents have already prepared a seniority list in the cadre of Assistant Professor and they are taking steps to order promotion, the tribunal ought to have called for the said seniority list for an effective adjudication of the issue involved in the O.A without disposing of the O.A hastily on the mere statistical data in view of the arrangement made to meet the exigency.

Therefore, We feel it a fit case to remand the matter to the tribunal for fresh consideration in the light of the above observations.

Accordingly, this writ petition is allowed setting aside the order impugned and remanding the matter to the tribunal for fresh consideration.

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Justice T. Meena Kumari

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Justice G. Chandraiah

Date: 29th October, 2007
Nn/Gurc.

HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:15818 OF 2006

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

29.10.2007

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